

**STATEMENT OF
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ACTING DEPUTY DIRECTOR
OFFICE OF TRUST SERVICES
BUREAU OF INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
ON
S. 1996
OGLALA SIOUX TRIBE ANGSTURA IRRIGATION PROJECT REHABILITATION AND
DEVELOPMENT ACT**

June 16, 2004

Mr. Chairman, I am Ross Mooney, the Acting Deputy Director for the Office of Trust Services for the Bureau of Indian Affairs. I am pleased to provide the Administration's views on S. 1996, the Oglala Sioux Tribe Angostura Irrigation Project Rehabilitation and Development Act. S. 1996 would enhance and provide certain project benefits for the Oglala Sioux Tribe in connection with water conservation improvements on the Angostura Irrigation Project. The Administration cannot support the bill as it is currently written, and has several serious concerns, which I will discuss here today.

Title I of S. 1996 would authorize the Secretary to rehabilitate and improve the facilities of the Angostura Project, a component of the multi-state Pick Sloan Missouri Basin Program. Furthermore, Title I would provide that the Secretary shall to the maximum extent practicable, deliver water saved through the rehabilitation and improvement of the facilities of the Angostura Project to the Pine Ridge Indian reservation, and provide that the use of that water be used for environmental restoration.

Title II of the bill would create a Tribal Development Trust Fund to promote economic development, infrastructure development, and the education, health, recreational, and social welfare objectives of the Tribe and members of the Tribe.

While the Administration recognizes that economic challenges that many Tribes in Indian Country face, the establishment of a Trust Fund to address these issues does not seem warranted at this time. The bill infers there "may" be impacts caused by the development of Angostura Unit of the Pick-Sloan Project, yet we are not aware of what those specific impacts are. Unlike other legislative propositions regarding compensation for land impacted by the Pick-Sloan Project, no specific impacts have been cited here nor any evaluation of appropriate compensation completed. The Administration shares the concern of the Tribes about the need to improve economic, educational, and health systems on the reservation and will continue to work with the Tribe to seek solutions to promote these reforms.

In addition, Title II establishes a Trust Fund without a specific dollar amount and requires a

retroactive annual interest payment on an unspecified amount to be deposited in the Fund in the 11th year following enactment of S. 1996. We are concerned with the precedent that this may set.

The Administration is also concerned that the proposal would exclude all the stakeholders, other than the Oglala Sioux Tribe, from the ongoing public process collaboratively developed during the Environmental Impact Statement (EIS) process to recommend the most beneficial use of saved water. In addition, we do not support the blanket authorization for such sums that may be necessary included in this bill.

In August 2002, the Bureau of Reclamation (Reclamation), in collaboration with a host of stakeholders, completed and published the Final Environmental Impact Statement (FEIS) for Contract Negotiation and Water Management of the Angostura Unit. The EIS was prepared in cooperation with:

- the Angostura Irrigation District;
- Oglala Sioux Tribe;
- Cheyenne River Sioux Tribe;
- Lower Brule Sioux Tribe;
- South Dakota Department of Game, Fish, and Parks;
- U.S. Geological Survey;
- U.S. Natural Resources Conservation Service;
- U.S. Bureau of Indian Affairs; and
- The South Dakota Department of Environment and Natural Resources.

In January 2003 the Record of Decision (ROD) was signed for renewal of a long-term water service contract for the Angostura Unit, Cheyenne River Basin, South Dakota. Reclamation is concerned that provisions of Title I are inconsistent with understandings spelled out in the ROD that involved input from many key stakeholders. These provisions include the requirement that the Secretary deliver saved water for the purposes of environmental restoration on the Pine Ridge Indian Reservation, and the finding that the Angostura Unit may be associated with negative effects on water quality and riparian vegetation in the Cheyenne River on the Reservation.

With regard to the authority in Section 101 to carry out rehabilitation and improvement at the Angostura Project, Reclamation already has authority to undertake such work.

Mr. Chairman, while the Department cannot support S. 1996 as written, we share the sponsors goal of finding innovative solutions for economic, education, health, recreational, and social welfare improvements on the Reservation. Indeed, the Department has already committed significant resources to the ongoing construction of the Mni Wiconi rural water project, which addresses many of the needs identified in this legislation. The Department stands ready to work with the Tribe, the Committee, and the South Dakota delegation on these activities including examining if there are quantifiable impacts caused by the Pick-Sloan project.